

Application No. 10/084,962
Amendment A
March 23, 2005

REMARKS/ARGUMENTS

In the outstanding Office Action, the Examiner withdrew the previous allowance of claims 17-34 and rejected the claims based either on 35 U.S.C. § 102 or § 103 as obvious in view of U.S. Patent No. 6,261,433 to Landau ("the Landau patent"). The Examiner is respectfully requested to reconsider that rejection.

The Landau patent is not prior art as to the present application. The record here shows that the present application is entitled to an effective filing date of its parent application, namely Application Serial No. 09/113,418 filed July 10, 1998. That, of course, precedes the filing date appearing on the face of the Landau patent of April 21, 1999.

The Landau application refers to a provisional application, said to have been filed on April 21, 1998. Applicants have not had access to that provisional application and therefore have, at the present time, no information as to whether that provisional application supports the disclosure of the Landau patent. Even if the Landau patent is entitled to the effective filing date of that provisional application, the Landau patent still fails to qualify as prior art as to the present application.

So demonstrating that fact is a declaration under 37 C.F.R. § 1.131, executed by the inventors, Messrs. Woodruff and Hanson, in the above-identified application. Messrs. Woodruff and Hanson point out and attach as exhibits, their two Invention Disclosures describing the segmented anode which is disclosed and

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claimed in the present application. While the dates on those invention disclosures have been removed as is customary in such declarations, Messrs. Woodruff and Hanson both allege that the dates appearing on those Invention Disclosures for their preparation, execution and witnessing all occurred prior to April 21, 1998, the earliest possible date to which the Landau patent could conceivably be entitled. Thus, their declaration establishes prior conception.

So too does their declaration establish prior reduction to practice. Attached to the declaration are the Semitool, Inc. engineering drawings for the segmented reactor. As Messrs. Woodruff and Hanson point out, the segmented reactor was actually built from those drawings and successfully tested, again prior to April 21, 1998. The declaration demonstrates, beyond any question, actual reduction to practice of the segmented anode reactor.

In light of the declaration of Messrs. Woodruff and Hanson, the Landau patent fails to qualify as prior art as to the present claims and the rejection based on the Landau patent must be withdrawn. Thus, the Examiner should declare the interference between the present application and the Applied Materials '860 patent forthwith.



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CERTIFICATE OF MAILING (37 C.F.R. § 1.10)

I hereby certify that this correspondence and/or fee is, on the date shown below, being deposited with the United States Postal Service as Express Mail Post Office to Addressee, No. EL 927638286 US, with sufficient postage, under 37 C.F.R. § 1.10 and addressed to: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 23, 2005.

Eileen Madrigal